

Dkt. No. 032915/0118

REMARKS

Claims 1-31 were pending in the application. Claims 2, 16-21, and 29 have been withdrawn from consideration by the Examiner as being drawn to non-elected inventions. Claims 1, 3-8, 10, 16, 24, and 31 have been amended. Claim 27 has been cancelled. No new matter has been introduced. Thus, claims 1, 3-15, 22-26, 28, and 30-31 are submitted for reconsideration at this time.

The Applicants sincerely appreciate the indication that claims 5 and 8-10 would be allowable if placed in independent form. By way of this amendment, these claims have been placed in independent form.

The Applicants also appreciate the Examiner's consideration of the information submitted in the Applicants' Information Disclosure Statements (IDS). The Examiner is respectfully requested to initial references A1 (D 310,017), A2 (D 446,442), and A3 (4,850,769) on the PTO form 1449 submitted with the November 21, 2001 IDS and return the initialed form to the undersigned (references A4 (5,259,711) and A5 (5,409,335) do not have to be initialed because 5,259,711 and 5,409,335 were initialed on the January 24, 2002 form 1449).

Claims 1, 3-4, 6-7, 11-15, 22-28, and 30-31 stand rejected under 35 U.S.C. §102(b) as being anticipated by Johnson et al. (USP 3,972,500).

By way of this amendment, all of the rejected Independent claims have been amended to further define the invention. It is respectfully submitted that the amended claims are clearly patentable for at least the following reasons.

The present invention is directed to a truck which includes a body having a cab, an exterior cargo bed behind the cab, side walls on left and right sides of the exterior cargo bed to serve as boundaries of the exterior cargo bed on the left and right sides, and a tailgate at a rearward end of the exterior cargo bed. These amendments are clearly supported by, for example, Figure 1 of the present application and associated text. Thus, the present invention is directed to a type of truck such as a pickup truck, a sports utility truck, or other type of truck having a cab, an exterior cargo bed behind the cab, sidewalls, and a tailgate.¹

¹ Of course, items in the exterior cargo bed may be covered with a cover or tarp to protect them from the elements.

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The Johnson patent clearly does not disclose or suggest a truck having the features of the amended independent claims. Although the Johnson patent indicates that it is related to "highway trucks" in addition to freight containers, trailers, railroad cars, ships, aircraft, and space vehicles, there is no disclosure or suggestion in Johnson of a truck having a cab, an exterior cargo bed behind the cab, sidewalls, and a tailgate, in combination with the claimed tie-down track.

In addition, contrary to the amended independent claims, Johnson relates to an "interior of a cargo carrier" (first full paragraph under "Description of the Preferred Embodiment"), contrary to the amended independent claims 1, 3, and 4, which recite an exterior cargo bed being defined by the body. Furthermore, in the fifth full paragraph under the "Summary of the Invention" the patent suggests that the invention is well suited for restraint of cargo in flat racks and other cargo containers which do not have structural sides or ends.

It is therefore respectfully submitted that the present claims are clearly patentable over Johnson.

Rejoinder Of Claims 2, 16-21, and 29

As generic claims 1 and 3 are considered to be allowable, rejoinder and allowance of claims 2, 16-21, and 29 is earnestly solicited.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

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The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date July 1, 2003By 

FOLEY & LARDNER
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5426
Facsimile: (202) 672-5399

Glenn Law
Attorney for Applicant
Registration No. 34,371

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge deposit account No. 19-0741 for any such fees; and applicant hereby petitions for any needed extension of time.

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Version With Markings To Show Changes Made**In the Claims:****1. (Amended) A truck, comprising:**

a body having a cab, an exterior cargo bed behind the cab, side walls on left and right sides of the exterior cargo bed to serve as boundaries of the exterior cargo bed on the left and right sides, and a tailgate at a rearward end of the exterior cargo bed; and

at least one tie-down track mounted on the body such that a mounting surface of the track is recessed with respect to the contour of adjacent portions of a horizontal plane of the body and a slotted surface of the track does not extend appreciably beyond the horizontal plane of the body.

3. (Amended) A truck, comprising:

a body having a cab, an exterior cargo bed behind the cab, side walls on left and right sides of the exterior cargo bed to serve as boundaries of the exterior cargo bed on the left and right sides, and a tailgate at a rearward end of the exterior cargo bed;

at least one tie-down track, the tie-down track being integral with the body of the truck such that the exterior contour of the track does not extend appreciably beyond the contour of adjacent portions of the body; and

a fitting which can be slidingly moved within the track and then fixed in [a desired] position, the entire fitting being releasable from the track.

4. (Amended) A truck, comprising:

a body having a cab, an exterior cargo bed behind the cab, side walls on left and right sides of the exterior cargo bed to serve as boundaries of the exterior cargo bed on the left and right sides, and a tailgate at a rearward end of the exterior cargo bed; and

at least one tie-down track, the tie-down track being integral with the body of the truck such that the exterior contour of the track does not extend appreciably beyond the contour of adjacent portions of the body,

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wherein [the body forms a cargo bed and] the track does not extend appreciably beyond a horizontal plane of a floor of the exterior cargo bed.

5. (Amended) [A truck as set forth in claim 1.] A truck, comprising:
a body; and
at least one tie-down track mounted on the body such that a mounting surface
of the track is recessed with respect to the contour of adjacent portions of a horizontal
plane of the body and a slotted surface of the track does not extend appreciably
beyond the horizontal plane of the body,

wherein the body comprises a cargo bed and the track is mounted at a front of the cargo bed parallel to a rear end of a cab of the truck.

6. (Amended) A truck as set forth in claim 1, wherein [the body comprises a cargo bed and] the tie-down track is mounted in the exterior cargo bed parallel to a longitudinal direction of the truck.

7. (Amended) A truck as set forth in claim 6, further comprising:
a second tie-down track in the exterior cargo bed, the second tie-down track mounted on the body such that a mounting surface of the second tie-down track is recessed with respect to the contour of adjacent portions of the horizontal plane of the body and a slotted surface of the second tie-down track does not extend appreciably beyond the horizontal plane of the body.

8. (Amended) [A truck as set forth in claim 1.] A truck, comprising:
a body; and
at least one tie-down track mounted on the body such that a mounting surface
of the track is recessed with respect to the contour of adjacent portions of a horizontal
plane of the body and a slotted surface of the track does not extend appreciably
beyond the horizontal plane of the body,

wherein the body comprises a cargo bed and the tie-down track is located in a side wall of the cargo bed parallel to a longitudinal direction of the truck.

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10. (Amended) [A truck as set forth in claim 1,] A truck, comprising:
a body; and

at least one tie-down track mounted on the body such that a mounting surface
of the track is recessed with respect to the contour of adjacent portions of a horizontal
plane of the body and a slotted surface of the track does not extend appreciably
beyond the horizontal plane of the body,

wherein the body comprises a tailgate and wherein the track is supported by the
tailgate.

16. (Amended) A truck as set forth in claim 1, further comprising a fitting
which can be slidably moved within the track and then fixed in [a desired] position,
the fitting including a tire cradle.

24. (Amended) A truck as set forth in claim 1, wherein the tie-down track
is located outside of [a passenger compartment of the truck] the cab.

31. (Amended) A truck as set forth in claim 4, wherein the at least one tie-
down track is mounted wholly external to [a passenger compartment of the truck] the
cab.